

GP/1655 #

Practitioner's Docket No. 47483-C

PATENT RECEIVED

JAN 10 2001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Kolodner, et al.

Application No.: 09/470,276

Group No.: 1655

Filed: December 22, 1999

Examiner: Fredman, J.

For: METHOD OF DETECTION OF ALTERATIONS IN MSH5

Assistant Commissioner for Patents
Washington, D.C. 20231

#8
Harry
1-12 -01

TECH CENTER 1600/2900

RESTRICTION REQUIREMENT TRANSMITTAL

1. Transmitted herewith is a restriction requirement for this application.

STATUS

2. Applicant is
[X] a small entity. A statement:
[] is attached.
[X] was filed June 20, 2000.
[] other than a small entity.

EXTENSION OF TERM

NOTE: "Extension of Time in Patent Cases (Supplement Amendments) — If a timely and complete response has been filed after a

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

- X deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

FACSIMILE

- ☐ transmitted by facsimile to the Patent and Trademark Office.

Date: December 29, 2000

Maria R. Valinch
Signature

Maria R. Valinch
(type or print name of person certifying)

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after expiration of the shortened statutory period.

If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run." Notice of December 10, 1985 (1061 O.G. 34-35).

NOTE: See 37 C.F.R. 1.645 for extensions of time in interference proceedings, and 37 C.F.R. 1.550(c) for extensions of time in reexamination proceedings.

3. The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply.

(complete (a) or (b), as applicable)

(a) ☒ Applicant petitions for an extension of time under 37 C.F.R. 1.136 (fees: 37 C.F.R. 1.17(a)(1)-(4)) for the total number of months checked below:

	Extension (months)	Fee for other than small entity	Fee for small entity
<input type="checkbox"/>	one month	\$110.00	\$55.00
<input type="checkbox"/>	two months	\$380.00	\$190.00
<input type="checkbox"/>	three months	\$890.00	\$445.00
<input checked="" type="checkbox"/>	four months	\$1390.00	\$695.00
<input type="checkbox"/>	five months	\$1890.00	\$945.00
		Fee: \$	695.00

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

☐ An extension for _____ months has already been secured. The fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ 695.00

OR

(b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. 1.116(b)-(d)) has been calculated as shown below:

(Col. 1)		(Col. 2) (Col. 3) SMALL ENTITY				OTHER THAN A SMALL ENTITY		
Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Addit. Fee	OR	Rate	Addit. Fee
Total	* Minus	**	=	x \$11 =	\$		x \$22 =	\$
Indep.	* Minus	***	=	x \$41 =	\$		x \$82 =	\$
[] First Presentation of Multiple Dependent Claim				+ \$135 =	\$		+ \$270 =	\$
Total					Addit. Fee	\$	OR	Total
					Addit. Fee	\$		Addit. Fee

* If the entry in Col. 1 is less than the entry in Col. 2, write "O" in Col. 3,

** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

WARNING: "After final rejection or action (§ 1.113) amendments may be made canceling claims or complying with any requirement of form which has been made." 37 C.F.R. 1.116(a) (emphasis added).

(complete (c) or (d), as applicable)

(c) [X] No additional fee for claims is required.

OR

(d) [] Total additional fee for claims required \$ _____.

FEE PAYMENT

5. [X] Attached is a check in the sum of \$695.00.
 [] Charge Account No. ____ the sum of \$ ____.
 A duplicate of this transmittal is attached.

FEE DEFICIENCY

NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, (1065 O.G. 31-33).

6. [X] If any additional extension and/or fee is required, charge Account No. 50-0850.

AND/OR

[X] If any additional fee for claims is required, charge Account No. 50-0850.


SIGNATURE OF PRACTITIONER

Reg. No. 30,628

Ronald I. Eisenstein

(type or print name of practitioner)

Tel. No. (617) 345-6054

Nixon Peabody LLP

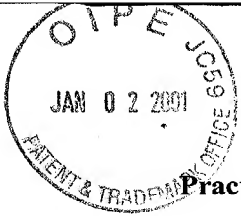
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BOS 336397.1



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PATENT

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The Assistant Commissioner for Patents
Washington, D.C. 20231

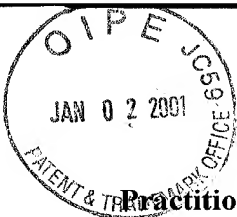
Sir:

Certificate of Mailing

I hereby certify that the following items are being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to The Commissioner of Patents and Trademark, Washington, DC 20231, on this 29th day of December, 2000:

1. Transmittal for Restriction Requirement;
2. Restriction Requirement;
3. Check in the amount of \$695.00; and
4. Return Receipt Postcard.

Maria R. Valinch
Maria R. Valinch



Practitioner's Docket No. 47483-C

PATENT

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Harry
1-12-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Application No.: 09/470,276

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RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the Restriction Requirement dated July 31, 2000, a Petition for a Four Month Extension of Time and payment of fee is enclosed. Applicants elect Group II (claims 2-12), directed to nucleic acids, and as species, SEQ ID NOs: 1, 3-6, 27-30, and 53, with traverse.

In the Claims:

431 Sub F 3 (amended). An isolated nucleotide segment containing a fragment of at least 17 contiguous nucleotides as set forth in SEQ ID NO:1, with the exception of base pairs 1908-2900.

REMARKS

Applicants have elected Group II in response to the Restriction Requirement. Applicants have elected as species SEQ ID NOs: 1, 3-6, 27-30, and 53, with traverse. The Examiner further required applicants to elect no more than 10 different sequence identifiers, which applicants have done. Applicants, however, traverse the requirement to elect no more than 10 sequences, on the grounds that the remaining nucleic acid sequences are all human sequences. Specifically, this application is directed towards the human and murine homologues of the bacterial mismatch repair gene MSH5. The relationships between the sequences disclosed in the present application are summarized on page 4, and described in more detail beginning on page 52, particularly pages 55-58.

For example, SEQ ID NO:1 is the sequence of the human MSH5 cDNA, SEQ ID NOs:3-26 are the 5' intron-exon borders of the human MSH5 gene, and SEQ ID NOs:27-50 are the 3' intron-exon borders of the human MSH5 gene. SEQ ID NOs:51 and 52 were primers used to obtain SEQ ID NO:1 (see pages 51-52). SEQ ID NO:53 is the sequence of the murine MSH5 cDNA. The intron-exon borders within a gene are important characteristics that help in the use of the hMSH5 gene. Applicants submit that given the close relationship, these nucleic acids should all be searched together.

The amendment to claim 3 is supported at pages 35-37 and 51-52. As such it does not constitute new matter and its entry is requested.

In view of the foregoing, applicant respectfully submits that all claims are in condition for allowance. Early and favorable action is requested.

In the event that any additional fees are required, the PTO is authorized to charge our deposit account No. 50-0850.

Respectfully submitted,

Date: 12/29/00



Ronald I. Eisenstein
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